

LENNOX, J.

FEBRUARY 18TH, 1915.

KNOWLTON v. UNION BANK OF CANADA.

Appeal—Forum—Reference to County Court Judge for Trial of Action—Judge Treating Reference as Made to him as Local Master—Appeal from Report—Jurisdiction of High Court Division—Mortgage—Ratification—Promissory Note — Estoppel—Report Varied in one Respect—Costs.

Appeal by the defendants from the report of a Local Master.

The appeal was heard in the Weekly Court at Toronto.

J. A. Hutcheson, K.C., for the defendants.

S. H. Bradford, K.C., for the plaintiff, raised a preliminary objection to the jurisdiction.

LENNOX, J.:—As a preliminary objection, counsel for the plaintiff contends that the application is by way of appeal from a judgment of a Judge of a County Court, and that I have no jurisdiction. If the statement of fact is right, the argument is unanswerable. It is shewn that, when the case came on for trial, the learned Judge presiding at the Brockville Assizes ordered "that this action be referred for trial to Edmund J. Reynolds, Esquire, Junior Judge of the County Court at Brockville." The Junior Judge referred to is also Local Master, and in the order quoted from is, incidentally, referred to as a Local Master. The difference in procedure is not very great, but it is evident that throughout the learned County Court Judge purported to act as a Local Master, and this seemingly with the concurrence of both parties. He made a report, and the report was filed, and notice given pursuant to the Rules governing references. The findings of the report are all in favour of the plaintiff, and it is from this report that the appeal is taken. This is what is before me. I have to deal with this as a fact. I have no power to go behind it—except to consider the evidence. I have no power to declare that the proceedings were illegal or irregular.

In addition to all this, the plaintiff has a report, or he has nothing.

I cannot say that I feel that the objection taken is not reasonably arguable, but I cannot quite see my way either to ignoring the fact that there is a report before me—in terms the findings